



Appeal Decision

Site visit made on 11 September 2023 by T Bennett BA (Hons) MSc

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2023

Appeal Ref: APP/Z5060/W/23/3317685

94 Frizlands Lane, Dagenham RM10 7YJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Sergiy Krochak against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 22/02154/HSE, dated 13 December 2022, was refused by notice dated 6 February 2023.
 - The development proposed is the construction of a single storey outbuilding to be ancillary to the main dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single storey outbuilding to be ancillary to the main dwellinghouse at 94 Frizlands Lane, Dagenham RM10 7YJ in accordance with the terms of the application, Ref 22/02154/HSE, dated 13 December 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1876-00 Site Location Plan and 1876-01 Proposed Layout.
 - 3) The outbuilding hereby permitted shall not be occupied or used at any time other than for purposes ancillary to the residential use of the dwelling known as 94 Frizlands Lane and as shown on the plans hereby approved.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Revised plans have been submitted as part of the appeal which omit the dividing wall between the proposed bedroom and dining/living space. However, there is no indication that the changes were subject to any assessment or consultation by the Council. I must base my decision on the plans that were before the Council when they made their decision. Consequently, I have not taken the amendments into account.
4. The Council refers to Policies SP2, DMD 1 and DMD 6 of the London Borough of Barking and Dagenham Draft Local Plan 2037 – Regulation 19 consultation

version (Autumn 2021). There is little information on the status of the plan in the evidence and, as such, I cannot be certain that these policies are in their final form. They may be subject to modifications through the ongoing examination process. Consequently, and in accordance with paragraph 48 of the Framework, they attract limited weight. In any case, these emerging policies do not appear to relate to the principle of development which is the reason the Council refused planning permission.

Main Issue

5. The main issue is the principle of the proposed development with specific regard to its nature and location.

Reasons for the Recommendation

6. The appeal site is at the rear of the back garden of the host dwelling. The garden is accessed either through the host dwelling or via the attached garage and is bound by timber fencing and bordered by the gardens of surrounding properties. It is a matter of fact and degree as to whether the proposed single storey outbuilding would be ancillary accommodation or a self-contained dwelling. In the case of *Uttlesford District Council v Secretary of State for the Environment and White* [1992] it was found that, even if accommodation provides facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling, or an independent dwelling and that would be a matter for the decision maker to decide on a factual basis.
7. The proposed outbuilding is described as ancillary to the main dwelling by the appellant. It would be small in scale and have only a single aspect, facing directly towards the host dwelling. It would have a considerably smaller footprint than the host dwelling and include a garden store, dining and living area, small kitchenette, single bedroom and shower room. As such, it would have the necessary facilities for self-contained independent living. However, it does not necessarily follow that it would not or could not be occupied for purposes ancillary to the host property.
8. The outbuilding would be within the same curtilage as the main dwelling which is far from expansive. It is stated that it would be used by an elderly family member as ancillary accommodation, and I have no reason to doubt this. It would share the same access, parking and garden areas. There would not be any separation in terms of utilities, garden space, postal address or physical boundary demarcation. Moreover, the rear garden is bound by fencing and can only be accessed through the existing house or garage. Therefore, it is neither a feasible nor a realistic prospect for the curtilage to be subdivided into separate plots and result in a meaningful curtilage and facilities for each unit.
9. Accordingly, the form and physical relationship between the existing dwelling and the proposed outbuilding demonstrates a clear connection with the main dwelling, such that the proposed development would not be a separate residential unit. In any case, any future desire to occupy the outbuilding as a wholly independent residence would require separate planning permission. Furthermore, a condition could be imposed to ensure that the proposed outbuilding is solely used for purposes ancillary to 94 Frizlands Lane.

10. I am therefore satisfied that the principle of the proposed development would be acceptable and can see no harm that would arise in that regard. No policies have been presented to me that appear to relate to the principle of development. Policy D4 of the London Plan (2021), Policy CP3 of the Local Development Framework Core Strategy (2010) and Policy BP11 of the LDF Borough Wide Development Plan Policies DPD (2011) relate to design. The Council have found no issue with such matters; therefore, these policies are not pertinent to the main issue. As no other policies have been presented in relation to the principle of development, I can only conclude that the proposal accords with the development plan when taken as whole.

Conditions

11. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for certainty and enforcement purposes. A condition which requires the materials to match the existing dwellinghouse is not necessary. Part of the proposed development will include timber cladding to the front elevation, and this is not present on the main dwelling. Such treatment would be acceptable for its setting and the fact the front elevation would face into a private garden. I do not see it necessary to impose a condition to this effect. Development being carried out in accordance with the approved plans would be sufficient.
12. The Council also suggest a condition that the outbuilding should not be used as a separate unit of accommodation. This is not necessary as this would require separate planning permission in light of the stated occupancy condition ensuring that the use of the outbuilding remains incidental to the host dwelling. This is necessary to protect the residential amenity and character of the area and reflect the intentions of the appeal scheme.

Conclusion and Recommendation

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed, subject to the conditions above.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is allowed, subject to the conditions set out.

John Morrison

INSPECTOR